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## **OLR Bill Analysis**

**sHB 5453 (as amended by House "A")\***

### ***AN ACT CONCERNING EMPLOYERS AND HOME CARE WORKERS.***

#### **SUMMARY:**

This bill allows a “sleep-time” exclusion from overtime pay requirements for certain employees employed by third-party providers (e.g., home care agencies) to provide “companionship services” as defined by federal regulations. In general, these regulations define “companionship services” to mean fellowship, protection, and limited care for an elderly person or person with an illness, injury, or disability. The bill’s sleep-time exclusion aligns state law with changes in federal regulations effective January 1, 2015 (see BACKGROUND).

Specifically, the bill allows such an employee and third-party provider to agree to exclude a regularly scheduled sleep period of up to eight hours from the work hours used to determine the employee’s overtime pay if (1) the employee is required to be present at a worksite for at least 24 consecutive hours, (2) adequate on-site sleeping facilities are provided to the employee, and (3) the employee receives at least five hours of sleep-time.

Under the bill, the employer cannot exclude more than eight hours from the employee’s work hours even if the sleep period is scheduled for longer than eight hours. If the sleep period is interrupted by a work assignment, the interruption must be counted as hours worked. If the employee receives less than five hours of sleep time during the scheduled sleep period, the entire sleep period must be considered hours worked.

The bill specifies that it becomes effective on the effective date of the U.S. Department of Labor’s Final Rule on the Application of the federal Fair Labor Standards Act to Domestic Service published in the October

1, 2013 Federal Register (January 1, 2015).

\*House Amendment "A" replaces the original bill (File 305), which allowed similar sleep-time exclusions for employees required to be on duty in their employer's home for at least 24 hours.

EFFECTIVE DATE: January 1, 2015

## **BACKGROUND**

### ***Companionship Services in Federal Regulations***

Because the state's overtime law mirrors federal law and regulations regarding domestic workers, recent changes in federal regulations will expand the range of workers entitled to overtime pay. Current federal regulations do not require overtime pay for any domestic service workers providing companionship services, but upcoming changes to these regulations eliminate this "companionship exemption" for third-party providers' employees. Consequently, these employees will be entitled to overtime pay for any hours worked beyond 40 in a week and could include many who work (and sleep) on at least a 24-hour shift at a worksite. While federal regulations allow a sleep-time exemption from overtime pay for such employees, current state law does not.

### ***Federal Sleep-Time Exemption***

Under federal regulations, if a domestic service worker is required to be on duty for at least 24 hours, the worker and his or her employer can agree to exempt as hours worked a regularly scheduled sleeping period of up to eight hours, provided the employer furnishes adequate sleeping facilities and the employee's time spent sleeping is usually uninterrupted (22 CFR § 785.22).

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 8 Nay 2 (03/18/2014)